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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,966	12/21/2000	Bruno Cattaruzzi	00-423	6279
7590	08/19/2004		EXAMINER	
GLASSMAN, EDWARDS, WADE & WYATT			NGUYEN, SON T	
c/o Todd Murrah			ART UNIT	PAPER NUMBER
26 North Second St.				
Memphis, TN 38103			3643	

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/740,966	CATTARUZZI, BRUNO	
	<b>Examiner</b>	<b>Art Unit</b>	MW
	Son T. Nguyen	3643	

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 September 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-37 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3,11-14,16-24 and 32-37 is/are rejected.  
 7) Claim(s) 4-10,15 and 25-31 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

  
 Prin Exam 3643

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 21 December 2000 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-3,11,16,17,21,22,32,33** are rejected under 35 U.S.C. 102(b) as being anticipated by US 4037565 (herein 565).

For claim 1, 565 discloses an apparatus for capturing, conveying and loading fowl into selected compartments of a plurality of storage cages 62, comprising: a) a frame 12; b) forward conveying means 22 pivotally mounted to said frame for capturing said fowl and conveying said fowl proximate said frame; c) rearward conveying means 46 pivotally mounted to said frame, independent of said forward conveying means, for receiving fowl from said forward conveying means, conveying said fowl from said frame and discharging said fowl into selected ones of said compartments forming said storage cages, wherein said rearward conveying means is pivotally mounted to said frame for movement about both a horizontal axis and a vertical axis (col. 4, lines 55-61) to accommodate the discharge of said fowl into said compartments which may be disposed both vertically and laterally in relation to said frame.

For claim 2, 565 discloses further comprising pivot means 32,30,38,55,42,34 rotably mounted to said frame and to which said forward and rearward conveying means are mounted to accommodate independent pivotal movement of said forward

and rearward conveying means about a singular vertical axis and wherein a rearward end of said forward conveying means from which said fowl are discharged is always maintained about a receiving end of said rearward conveying means regardless of the angular relationship, both vertically and horizontally of said forward and rearward conveying means.

For claim 3, 565 discloses wherein said forward and rearward conveying means are each pivotally mounted to said pivot means for vertical motion relative thereto (col. 4, lines 55-61).

For claim 11, 565 discloses wherein said forward conveying means comprises; a) forward conveyor frame pivotally mounted to said frame (col. 4, lines 11-24); b) a plurality of rollers mounted within said forward conveyor frame for rotational movement (col. 4, lines 25-30, the belt 26 has to be on some sort of rollers); c) a forward conveyor belt 26 supported by said forward rollers in pressed contact therewith such that rotation of one or more of said forward rollers will urge said belt in continuous motion about said forward rollers and along said forward frame; and d) forward gathering means 24 connected to said forward conveyor frame for engaging one or more of said fowl and thrusting said fowl onto said forward conveyor belt so that said fowl are transported on said forward conveyor belt from said gathering means to a rearward end of said forward conveying means which is disposed above a receiving end of said rearward conveying means and wherein said fowl are discharged from said rearward end of said forward conveying means and fall vertically to said receiving end of said rearward conveying means.

For claim 16, 565 discloses wherein said rearward conveying means comprises: a first rearward conveyor 48 pivotally mounted to said frame for pivotal movement about a horizontal axis and a vertical axis; and a second rearward conveyor 50 slidably connected to said first rearward conveyor for sliding telescopic extension and retraction relative thereto (col. 4, lines 48-65).

For claim 17, 565 discloses an automatic urging means (col. 4, lines 48-66) connected to said first and second rearward conveyors for automatically urging said second rearward conveyor in sliding motion relative to said first rearward conveyor concurrently with and proportionately responsive to the pivotal movement of said rearward conveying means about said horizontal axis.

For claim 21, 565 discloses means for selectively urging said second rearward conveyor in sliding motion relative to said first rearward conveyor (col. 4, lines 48-65).

For claim 22, 565 discloses wherein said automatic urging means comprises means for selectively urging said second rearward conveyor in sliding motion relative to said first rearward conveyor (col. 4, lines 48-65).

For claim 32, 565 discloses means 58 connected to said second rearward conveyor for discharging said fowl from said second rearward conveyor.

For claim 33, 565 discloses an apparatus for the capturing and loading of fowl comprising: a) a frame; b) a first rearward conveyor pivotally mounted to said frame for pivotal movement about a horizontal axis; c) a second rearward conveyor slidably connected to said first rearward conveyor for sliding telescopic movement relative thereto; d) and means mounted to said first and second rearward conveyors for

automatically urging said second rearward conveyor in sliding telescopic movement relative to said first rearward conveyor concurrently with and proportionately responsive to the pivotal movement of said first rearward conveyor. See above claim 1 and col. 4, lines 48-65 for telescopic teaching.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 12,13, & 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over 565 (as above) in view of US 5361727 (herein 727).**

For claim 12, 565 discloses wherein said forward gathering means comprises a plurality of forward fingered drums (col. 4, lines 15-24) rotatably mounted to said forward conveyor frame for rotary movement about substantially parallel axis. However, 565 is silent wherein each of said drums are driven in opposite rotary directions relative to adjacent others of said drums.

727 teaches an apparatus for capturing, conveying and loading fowl into selected compartments of a plurality of storage cages wherein each of said drums are driven in opposite rotary directions relative to adjacent others of said drums (see fig. 1 near refs. 10,12-14 arrows). It would have been obvious to one having ordinary skill in the art at the time the invention was made to drive each of said drums in opposite rotary

directions relative to adjacent others of said drums as taught by 727 in the apparatus of 565 in order to carry the fowl to the conveyor for harvesting.

For claim 13, in addition to the above, 727 further teaches a pair of flexible combs 28 each connected to opposite sides of said forward conveyor frame and proximate said plurality of forward fingered drums for containing said fowl on said forward conveyor belt, wherein each comb includes flexible teeth (on the combs 28, see fig. 5) which will bend to allow the discharge of fowl from said forward conveyor when said fowl exceed a predetermined density thereon. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a pair of flexible combs with flexible teeth as taught by 727 in the apparatus of 565 as modified by 727 in order to further grip the fowl to be carried to the conveyor for harvesting.

For claim 37, in addition to the above, 727 further teaches a discharge carriage 112-114 pivotally connected to said second rearward conveyor for movement about a substantially vertical axis and laterally of the second rearward conveyor; and a rearward fingered drum (fig. 5) rotably connected to said discharge carriage for engaging said fowl and discharging said fowl from said second rearward conveyor. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a discharge carriage with the above mentioned features as taught by 727 in the apparatus of 565 in order to further guide the fowl into the cages for harvesting.

5. **Claim 14** is rejected under 35 U.S.C. 103(a) as being unpatentable over 565 (as above) in view of US 3958536 (herein 536). 536 teaches similar apparatus as that of 565 in which 536 employs a discharge hood 90 connected to a rearward end of a

conveyor frame 68, the hood having a top panel, two side panels, and a rear panel to facilitate the fowl being deposited downwardly from the conveyor into a coop 92. However, 536 does not teach placing the discharge hood at a rearward end of a first conveyor frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a discharge hood as taught by 536 in the apparatus of 565 so as to facilitate fowl being deposited downwardly from a conveyor and to prevent the fowl from escaping the conveyor. In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to place the discharge hood at end of any conveyor frames of 565 as modified by 536 at the end is where the fowl vertically drop into another conveyor or compartment and is prone to escape since the end is open. Therefore, it would have been common sense to place a hood at an end of a conveyor.

6. **Claims 18-20,23,24,34-36** are rejected under 35 U.S.C. 103(a) as being unpatentable over 565 (as above) in view of US 5743217 (herein 217).

For claim 18, 217 teaches similar apparatus as that of 565 in which 217 employs automatic urging means comprises a plurality of linkage members 62,C1-C4 (also see figs. 3,4), each pivotally connected to one of the others of said plurality of linkage members and wherein one of said linkage members is pivotally connected to said second rearward conveyor and another of said linkage members is connected to said first rearward conveyor (see fig. 4). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ automatic urging means comprises a plurality of linkage members, each pivotally connected to one of the others

of said plurality of linkage members and wherein one of said linkage members is pivotally connected to said second rearward conveyor and another of said linkage members is connected to said first rearward conveyor as taught by 217 in the apparatus of 565 in order to allow movement and connection of the conveyors in both horizontal and vertical directions.

For claim 19, in addition to the above, 217 further discloses the auto urging means comprises a first linkage member (any one of ref. no. 62) pivotally secured to the frame; a second linkage member (any one of ref. no. 62) pivotally connected to the first linkage member and to the first rearward conveyor; a third linkage member 62 (any one of ref. no. 62) pivotally connected to the second linkage member, wherein upward pivotal movement of the first rearward conveyor will, via first, second and third linkage members, urge the second rearward conveyor 80 in sliding rotation along the first rearward conveyor (any movement of first rearward conveyor will move the second rearward conveyor because they are connected) and away from the frame and wherein downward pivotal movement of the first rearward conveyor will urge the second rearward conveyor in sliding motion (sliding up and down into appropriate compartments, see col. 11, lines 66-67 and col. 12, lines 1-5; also see explanation for claim 16) along the first rearward conveyor and toward the frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ automatic urging means with features as described above as taught by 217 in the apparatus of 565 in order to allow movement and connection of the conveyors in both horizontal and vertical directions.

For claim 20, in addition to the above, 217 further discloses discloses the second linkage member 62 comprises a first linkage arm (any one of 62, in triangular formation, fig. 1) pivotally connected to the first linkage member and a second linkage arm (any one of 62, in triangular formation, fig. 1) pivotally connected to the third linkage member, wherein the first linkage arm is joined to the second linkage arm fixed angular relation thereto. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ automatic urging means with features as described above as taught by 217 in the apparatus of 565 in order to allow movement and connection of the conveyors in both horizontal and vertical directions.

For claims 23 & 24, in addition to the above, 217 further discloses wherein said selective urging means comprises a piston and shaft assembly C1-C4 pivotally connected to said second rearward conveyor, and wherein said third linkage member comprises a piston and shaft assembly pivotally connected to said second linkage member and pivotally connected to said second rearward conveyor. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ automatic urging means with features as described above as taught by 217 in the apparatus of 565 in order to allow movement and connection of the conveyors in both horizontal and vertical directions.

For claims 34-36, see the above claims.

***Allowable Subject Matter***

7. **Claims 4-10,15,25-31** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

8. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (703) 872-9325. The official fax number is 703-872-9306.



Son T. Nguyen  
Primary Examiner, GAU 3643  
June 14, 2004